

4-130A059
No.
Date **MAY 10 1984**
Fee \$ 50.00
ICC Washington, D.C.

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ATTORNEY AT LAW
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May 10, 1984

14321
REGISTRATION NO. Filed 1425

MAY 10 1984 - 11 55 AM
INTERSTATE COMMERCE COMMISSION

Ms. Mildred Lee
Interstate Commerce Commission
Office of Recordations

By Hand Delivery

Dear Ms. Lee:

Enclosed for filing, please find an original and one copy of an Agreement and Lease between the Mellon Financial Services Corporation #3 (Lessor) 3030 One Mellon Bank Center, Pittsburgh, Pennsylvania 15258 and Boston and Maine Corporation (Lessee) High Street, Iron Horse Park, North Dillerica, Massachusetts 01862 by which lessor lessees twenty locomotives (as described herein) to lessee.

Sincerely,

David E. Fox

David E. Fox

Encls.
DEF:gc

Ca. 1 - Lin Chandler

Interstate Commerce Commission

Washington, D.C. 20423

5/10/84

OFFICE OF THE SECRETARY

David E. Fox

Suite 1009

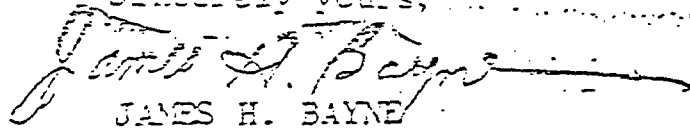
1625 Eye Street, N.W.

Washington, D.C. 20006

Dear **sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **5/10/84** at **11:55am** and assigned re-recording number(s). **14321**

Sincerely yours,



JAMES H. BAYNE

Secretary

Enclosure(s)

SE-30
(7/79)

14321

RECORDATION NO. _____ Filed 1425

MAY 10 1984 - 11 15 AM

INTERSTATE COMMERCE COMMISSION

AGREEMENT AND LEASE

dated as of May 1, 1984

between

MELLON FINANCIAL SERVICES CORPORATION #3,

Lessor

and

BOSTON AND MAINE CORPORATION,

Lessee

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Attachments:

Lease Supplement

Lease Schedule (with Annex 1, Stipulated Loss Value)

Exhibits

A. Form of Certificate of Acceptance

B. Form of Bill of Sale

C. Form of Guaranty and Suretyship Agreement

AGREEMENT AND LEASE

THIS AGREEMENT AND LEASE, dated as of May 1, 1984 between MELLON FINANCIAL SERVICES CORPORATION #3, a Pennsylvania corporation ("Lessor"), and BOSTON AND MAINE CORPORATION, a Delaware corporation ("Lessee");

W I T N E S S E T H T H A T :

WHEREAS, Lessee has requested that Lessor purchase and lease to Lessee the personal property described in the Lease Schedule (attached hereto), and Lessor is willing to do so upon the terms and subject to the conditions hereinafter set forth;

NOW, THEREFORE, the parties hereto, in consideration of their mutual covenants hereinafter set forth and intending to be legally bound hereby, agree as follows:

ARTICLE I. Certain Definitions

In addition to the words and terms defined elsewhere in this Agreement, the following words and terms shall have the

following meanings, respectively, unless the context hereof clearly otherwise requires:

"Additional Rent" shall mean any and all amounts, liabilities and obligations which Lessee assumes or agrees to pay hereunder pursuant to Section 4.3 of this Agreement, other than Basic Rent and Interim Rent.

"Agreement" shall mean this Agreement and Lease, as amended or supplemented from time to time, and shall include the Lease Schedule, the Lease Supplement and each Certificate of Acceptance and Certificate of Acceptance Upon Reconstruction executed and delivered from time to time pursuant to this Agreement. Each reference herein to "this Agreement", "herein", "hereunder", "hereof" or other like words shall include this Agreement, the Lease Schedule, the Lease Supplement, each such Certificate of Acceptance and Certificate of Acceptance Upon Reconstruction and any annex, exhibit or schedule attached hereto or thereto.

"Basic Rent" shall mean the amount payable as Basic Rent by Lessee pursuant to Section 4.2 of this Agreement.

"Certificate of Acceptance" shall mean the certificate of Lessee substantially in the form of Exhibit A hereto executed and delivered from time to time under this Agreement.

"Certificate of Acceptance Upon Reconstruction" shall mean the certificate of Lessor and Lessee to be executed and delivered from time to time pursuant to the Equipment Reconstruction Agreement.

"Closing" shall mean each closing hereunder to be held on the Purchase Price Closing Date or any Reconstruction Cost Closing Date.

"Closing Date" shall mean any Purchase Price Closing Date or Reconstruction Cost Closing Date.

"Default" and "Event of Default" shall mean any of the events described in Section 14.1 hereof.

"Equipment" shall mean all the Units described in the respective Certificates of Acceptance executed and delivered from time to time under this Agreement.

"Equipment Reconstruction Agreement" shall mean the Equipment Overhaul and Rebuilding Agreement dated May 2, 1984 executed and delivered by Lessor, Lessee and Reconstructor.

"Final Delivery Date" shall mean the date identified as such in the Lease Schedule.

"Guaranty Agreement" shall mean the Guaranty and Suretyship Agreement dated as of the date hereof from Guilford Transportation Industries, Inc. ("Guilford"), Maine Central Railroad Company and Delaware and Hudson Railway Company (collectively, the "Guarantors") to Lessor in substantially the form of Exhibit C hereto pursuant to which the Guarantors jointly and severally guarantee the obligations of Lessee hereunder.

"Hulk Purchase Agreement" shall mean Hulk Purchase Agreement #1 dated April 30, 1984 between Lessor (as Buyer) and Guilford (as Seller), together with each supplemental Hulk Purchase Agreement thereto.

"Interest Payment Rate" shall mean the lesser of the rate per annum identified as such in the Lease Schedule or the maximum rate permitted by law.

"Interim Rent" shall mean the amount, if any, payable as Interim Rent by Lessee pursuant to Section 4.2 of this Agreement.

"Lease Schedule" shall mean the Lease Schedule executed and delivered by Lessor and Lessee as of the date hereof, attached hereto and hereby incorporated herein.

"Lease Supplement" shall mean the Lease Supplement to Agreement and Lease attached hereto and hereby incorporated herein.

"Lessee's Right to Contest" shall mean, when used herein to modify Lessee's obligation to make payments to a governmental authority or other third party (other than payments required to be made pursuant to Section 11.2 hereof) or to take any action with respect to the Equipment imposed by law or by governmental authority, that Lessee shall have the right to contest such obligation by appropriate proceedings diligently conducted in good faith by Lessee so long as (i) Lessee shall first notify Lessor of its intention to exercise such right and shall supply Lessor with all such information with respect thereto as Lessor shall reasonably request, (ii) such contest does not, in Lessor's reasonable judgment, involve any danger of sale, forfeiture or loss of any Unit or create any danger of Lessor incurring criminal liability or other liability for which indemnification, satisfactory to Lessor and its counsel, of Lessor, its successors, assigns, representatives, directors, officers, employees, agents and servants by Lessee is not provided, and (iii) no Event of Default (or other condition, event, act or omission which with notice or lapse of time or both would be an Event of Default) has occurred and is continuing.

"Lessor's Cost" shall mean the purchase price of each Unit to Lessor as set forth in the Hulk Purchase Agreement (which shall not exceed the amount set forth in the Lease Schedule), and on and after the delivery of a Certificate of Acceptance Upon Reconstruction for such Unit shall also include the Reconstruction Cost of such Unit (which in the aggregate for all Units shall not exceed the amount set forth in the Lease Schedule) plus any excise, sales and use taxes paid or payable by Lessor with respect to the purchase or reconstruction thereof, and plus any costs and expenses approved by Lessor and Lessee and paid by Lessor in connection with the transactions contemplated hereby.

"Purchase Price Closing Date" shall mean the date on or before May 15, 1984 on which Lessor shall pay to Seller Lessor's Cost of the Equipment purchased by Lessor under the Hulk Purchase Agreement and leased to Lessee hereunder.

"Reconstruction Cost" shall mean the total cost of the work to be performed by the Reconstructor pursuant to the Equipment Reconstruction Agreement.

"Reconstruction Cost Closing Date" shall mean each of September 1, 1984, November 1, 1984 and the earlier of December 31, 1984 or the date of final delivery of a Certificate of Acceptance Upon Reconstruction with respect

to a Unit, on which dates Lessor shall pay to the Reconstructor the Reconstruction Cost for such Unit.

"Reconstructor" shall mean Morrison-Knudson Corporation, a corporation.

"Rent" shall mean Additional Rent, Basic Rent and Interim Rent, collectively.

"Rental Payment Date" shall mean each date on which Basic Rent (and Interim Rent, if any) is payable hereunder.

"Seller" shall mean Guilford Transportation Industries, Inc.

"Stipulated Loss Value" shall mean with respect to each Unit the amount equal to the applicable percentage of Lessor's Cost determined in accordance with the table set forth on Annex 1 to the Lease Schedule.

"Term" shall mean the period of time for which any one or more of the Units is leased hereunder.

"Unit" shall mean each individual item of personal property described in any Certificate of Acceptance executed and delivered under this Agreement.

ARTICLE II. Agreement to Lease

Lessor and Lessee agree that, subject to satisfaction of the closing conditions set forth in Section 6.1 hereof, on the Purchase Price Closing Date Lessor shall purchase from Seller and accept title to the respective Units in accordance with the terms of the Hulk Purchase Agreement, and that Lessee, on behalf of Lessor, shall forthwith thereafter assure delivery of the Units to the Reconstructor in accordance with the terms of the Equipment Reconstruction Agreement. Simultaneously therewith Lessor shall lease the Units to Lessee and Lessee shall hire same from Lessor, all upon the terms and subject to the conditions of this Agreement.

Subject to fulfillment of the conditions set forth in Section 6.2 hereof, upon redelivery of each Unit from the Reconstructor on or before the Final Delivery Date and the acknowledgment by Lessor and Lessee, by execution of a Certificate of Acceptance Upon Reconstruction with respect thereto, that the reconstruction work has been performed in accordance with the terms of the Equipment Reconstruction Agreement, Lessor shall pay the Reconstruction Cost with respect to such Unit on each Reconstruction Cost Closing Date or such later date as may be specified in the Equipment Reconstruction Agreement (provided that such Reconstruction Cost shall not exceed individually or collectively the amount assigned in the Lease Schedule) and the rental payable hereunder shall be as set

forth in the Lease Schedule to reflect the inclusion of the Reconstruction Cost of such Unit in Lessor's Cost with respect thereto.

ARTICLE III. Delivery and Acceptance

3.1. Delivery and Acceptance of Equipment Under Hulk Purchase Agreement. Lessor shall not be liable for any failure or delay in obtaining, or in delivery of, any of the Units under the Hulk Purchase Agreement or the Equipment Reconstruction Agreement.

Forthwith upon delivery of each Unit under the Hulk Purchase Agreement, Lessee shall determine whether to accept same. Lessor hereby appoints Lessee, as the authorized representative of Lessor, to accept delivery of each Unit. Acceptance of delivery by Lessee shall, without further act, irrevocably constitute acceptance by Lessee and Lessor of such Unit for all purposes of this Agreement.

Lessee hereby acknowledges and represents and warrants to Lessor with respect to each Unit so accepted that (i) such Unit is of a size, design, capacity and manufacture selected by Lessee, (ii) such Unit conforms to the applicable description and provisions set forth in the Lease Schedule and in the appraisal referred to in Section 6.1(a)(vii) hereunder and (iii) Lessee is satisfied that such Unit is suitable for the purpose of delivery

to the Reconstructor under the Equipment Reconstruction Agreement; provided, however, that nothing contained in this Agreement or in any Certificate of Acceptance shall in any way diminish or otherwise affect any rights which Lessor or Lessee may have against the vendor or manufacturer of any Unit or any subcontractor of such vendor or manufacturer.

Lessee shall promptly complete, execute and deliver to Lessor a Certificate of Acceptance with respect to each Unit so determined acceptable, and in conjunction therewith shall take such other action as may be necessary to fulfill the applicable conditions specified in Article VI hereof.

3.2. Delivery and Acceptance of Equipment Under Equipment Reconstruction Agreement. Forthwith upon redelivery of each Unit by Reconstructor, Lessee shall determine whether to accept same from Reconstructor. Lessor hereby appoints Lessee, as the authorized representative of Lessor, to accept delivery of each Unit from the Reconstructor. The execution and delivery of a Certificate of Acceptance Upon Reconstruction by Lessee shall, without further act, irrevocably constitute acceptance by Lessee of the inclusion of the Reconstruction Cost for such Unit in the Lessor's Cost with respect thereto for all purposes of this Agreement.

Lessee hereby acknowledges and represents and warrants to Lessor with respect to each Unit so accepted that (i) such

Unit is of a size, design, capacity and manufacture selected by Lessee, (ii) such Unit conforms to the applicable description set forth in the Lease Schedule, (iii) such Unit conforms to the specifications and terms of the Equipment Reconstruction Agreement and (iv) Lessee is satisfied that such Unit is suitable for its purposes; provided, however, that nothing contained in this Agreement or in any Certificate of Acceptance Upon Reconstruction shall in any way diminish or otherwise affect any rights which Lessor or Lessee may have against the vendor or manufacturer of any Unit or any subcontractor of such vendor or manufacturer or against Reconstructor.

Lessee shall promptly complete, execute and deliver to Lessor a Certificate of Acceptance Upon Reconstruction with respect to each Unit so determined acceptable, and in conjunction therewith shall take such other action as may be necessary to fulfill the applicable conditions specified in Article VI hereof.

ARTICLE IV. Term and Rent

4.1. Term. The Term shall commence on the date of acceptance by Lessee of the first Unit accepted for lease hereunder, as evidenced by the execution and delivery by Lessee of the Certificate of Acceptance with respect thereto. Unless earlier terminated or extended in accordance with the express provisions hereof, the Term shall expire on the date determined in accordance with the Lease Schedule.

4.2. Basic Rent and Interim Rent. Lessee shall pay to Lessor Basic Rent and Interim Rent for each Unit, in the aggregate amount and in the installments and on the Rental Payment Dates as specified in the Lease Schedule and in the Certificate of Acceptance covering such Unit, and reflecting the inclusion of the Reconstruction Cost of such Unit as set forth in the Certificate of Acceptance Upon Reconstruction with respect thereto in Lessor's Cost with respect thereto.

4.3. Additional Rent. The lease created pursuant to this Agreement is a "net" lease. Lessee shall pay as Additional Rent all amounts (in addition to Basic Rent and Interim Rent, if any) required to be paid under this Agreement and (except as expressly provided herein and subject to Lessee's Right to Contest) all costs, taxes (excluding, however, taxes, fees and other charges based upon or measured by Lessor's net income, together with interest and penalties with respect thereto), assessments and other expenses of every character (whether seen or unforeseen and whether or not expressly provided for herein) relating to or arising in connection with the use, occupancy, ownership, maintenance, repair, replacement or reconstruction of any Unit during the Term and, to the extent expressly provided herein, thereafter. Lessee shall also pay to Lessor as Additional Rent interest at the Interest Payment Rate on each overdue installment of Basic Rent (and Interim Rent, if any) and on each overdue payment of Additional Rent and Stipulated Loss Value.

4.4. Payment of Rent. Subject to Article XV hereof, each installment of Basic Rent and Interim Rent shall be paid to Lessor by wire transfer of immediately available funds delivered to Mellon Bank, N.A., Mellon Square Office, Pittsburgh, PA, Account No. 127-5680, or as directed by Lessor, and all Additional Rent shall be paid directly to the person entitled thereto and if such person is Lessor to its account as aforesaid or as it directs. All payments of Rent shall become due at 12:00 noon Pittsburgh time on the Rental Payment Date when due.

4.5. No Set-Off. Lessee shall not be entitled to any abatement of Rent, reduction thereof or set-off, counterclaim, recoupment or defense against Rent, including, but not limited to, abatements, reductions, set-offs, counterclaims, recoupments or defenses due or alleged to be due by reason of any past, present or future claims of Lessee against Lessor or any other person, including without limitation Reconstructor, for any reason whatsoever; nor except as otherwise expressly provided herein, shall this Lease terminate or the obligations of Lessee be otherwise affected by reason of any defect in the title, condition, design, operation or fitness for use of any Unit or damage to or loss of possession or loss of use or destruction of all or any of such Units from whatsoever cause and of whatever duration or any presently existing or hereafter created liens, encumbrances or rights of others with respect to any Unit or the prohibition of or other restriction against Lessee's use of all or any of such Unit or the interference with such use by any

person or entity or the invalidity or unenforceability or lack of due authorization of this Agreement or any insolvency of or bankruptcy, reorganization or similar proceeding against Lessee, or for any combination of such cause or any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the Rent payable by Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Agreement. To the extent permitted by applicable law, Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each payment of Rent made by Lessee hereunder shall be final, and Lessee shall not seek to recover all or any part of such payment from Lessor for any reason whatsoever.

ARTICLE V. Representations and Warranties

5.1. Lessor's Representations and Warranties. Lessor represents and warrants to Lessee that Lessor has received whatever title was conveyed to it by the vendor from which title to each Unit was received and that the Equipment is free of liens and encumbrances which may result from any claims against Lessor, except to the extent that such liens or encumbrances arise from

the failure of Lessee to perform any of Lessee's obligations hereunder. Lessor further represents and warrants that it has full power and authority to lease the Equipment to Lessee in accordance with the terms hereof. THE WARRANTIES OF LESSOR SET FORTH IN THIS SECTION 5.1 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS OR WARRANTIES OF LESSOR WHETHER STATUTORY, WRITTEN, ORAL OR IMPLIED, AND LESSOR HAS NOT MADE AND DOES NOT HEREBY MAKE, NOR SHALL IT BE DEEMED BY VIRTUE OF HAVING LEASED THE EQUIPMENT PURSUANT TO THIS AGREEMENT TO HAVE MADE, ANY REPRESENTATION OR WARRANTY AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE WORKMANSHIP IN, THE EQUIPMENT, but Lessor authorizes Lessee, at Lessee's expense, to assert during the Term, so long as no Event of Default and no event which with notice or lapse of time or both would be an Event of Default shall have occurred and be continuing, all of Lessor's rights under any manufacturer's, vendor's or dealer's warranty with respect to the Equipment or under any warranty made by the Reconstructor with respect to the reconstruction of the Units, and Lessor agrees to cooperate with Lessee in asserting such rights; provided, however, that Lessee shall not attempt to enforce such rights unless (i) Lessee shall first notify Lessor of Lessee's intention to enforce such rights and shall furnish to Lessor such information with respect thereto as Lessor may reasonably request and (ii) the enforcement of such rights does not, in Lessor's reasonable judgment, involve any danger of sale, forfeiture or loss of any Unit or create the danger of Lessor's

incurring criminal liability or other liability for which indemnification by Lessee, satisfactory to Lessor and its counsel, of Lessor and its successors, assigns, representatives, directors, officers, employees, agents and servants is not provided. Any amount received by Lessee as payment under any warranty pursuant to the above authorization shall be applied to restore the Equipment to as good a condition as it was or should have been (but for defects giving rise to such payment under warranty) when delivered to Lessee hereunder, ordinary wear and tear excepted, with the balance of such amount, if any, to be paid over to Lessor. The provisions of this Section 5.1 have been negotiated and agreed to by the parties hereto and, except to the extent otherwise expressly provided in this Section 5.1, are intended to be a complete negation and exclusion of any representations or warranties by Lessor, express or implied, whether arising pursuant to the Uniform Commercial Code or any similar law now or hereafter in effect, or otherwise.

5.2. Lessee's Representations and Warranties. Lessee represents and warrants to Lessor and for the benefit of Lender that:

(a) Lessee is a corporation duly organized and existing in good standing under the laws of the state of its incorporation, and is duly qualified to do business in those jurisdictions where such qualification is necessary;

(b) Lessee has full power, authority and legal right to execute, deliver and perform in accordance with this Agreement. This Agreement has been duly authorized by all necessary corporate action on the part of Lessee; does not require the approval of, or the giving of notice to, any federal, state, local or foreign governmental authority (except such as has already been given or obtained); does not contravene any law, governmental regulation or judicial or administrative order or decree binding on Lessee; and does not contravene Lessee's charter or by-laws or any indenture or agreement to which Lessee is a party or by which it or its property is bound;

(c) This Agreement constitutes a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms;

(d) Except as disclosed in a letter furnished by Lessee to Lessor at or before the time of execution of this Agreement, there are no pending or threatened actions or proceedings against Lessee or any of its affiliates before any court, administrative agency or other tribunal or body as of the Purchase Price Closing Date which may materially adversely affect Lessee's financial condition or operations or which question the legality or validity of this Agreement or which may affect Lessee's ability to perform its obligations hereunder; and

(e) The audited financial statements of Lessee for the year ending December 31, 1982 and the interim period ending June 30, 1983 have been furnished to Lessor and fairly present Lessee's financial condition as of such dates and the results of its operations for such periods in accordance with generally accepted accounting principles consistently applied except as to the changes necessary to account for the acquisition of Lessee on June 30, 1983, and the unaudited financial statements of Lessee for the period ending November 30, 1983 have been furnished to Lessor and fairly present Lessee's financial condition as of such date and the results of its operations for such period in accordance with generally accepted accounting principles as applied by the Interstate Commerce Commission, and since such dates and up to and including the Purchase Price Closing Date there has been no material adverse change in such condition or operations.

ARTICLE VI. Conditions to Lessor's Obligations

6.1. Conditions Precedent to Purchase Price Closing
Date

The obligation of Lender to purchase the Equipment pursuant to the Hulk Purchase Agreement on the Purchase Price Closing Date shall be subject to the Purchase Price Closing Date occurring on or before May 15, 1984 and to fulfillment of the

following conditions on or prior to the Purchase Price Closing Date to the satisfaction of Lessor and its counsel:

(a) Fully executed copies of the following documents shall have been delivered to Lessor:

- (i) the Lease
- (ii) the Guaranty Agreement;
- (iii) the Hulk Purchase Agreement;
- (iv) the Equipment Reconstruction Agreement;
- (v) the Certificate of Acceptance, in substantially the form of Exhibit A to the Lease;
- (vi) the Bill of Sale, in substantially the form of Exhibit B to the Lease; and
- (vii) an appraisal prepared and signed by an independent appraiser stating that the Equipment will have an economic useful life of 125% of the Term of the Lease and an economic value of not less than 20% of the Lessor's Cost at the expiration of the Term of the Lease.

(b) Lessor shall have received a certificate of Lessee's insurance broker evidencing that Lessee has obtained insurance with respect to the Equipment as required by Article X of this Agreement.

(c) The Lease shall have been recorded with the Interstate Commerce Commission pursuant to Section 11303 of the Interstate Commerce Act, 49 U.S.C. § 11303.

(d) Lender shall have received certified copies of the appropriate proceedings of the respective boards of directors or

executive committees of Lessee and the Guarantors with respect to the due authorization by the respective party thereof, of this Agreement, the Guaranty Agreement, the Hulk Purchase Agreement, the Equipment Reconstruction Agreement and the other instruments contemplated herein and therein and to the due execution, delivery and performance thereof by the respective party, each such certificate to be dated the Purchase Price Closing Date.

(e) The representations and warranties of Lessee contained herein and of the Guarantors contained in the Guaranty Agreement and of each such party in any certificate delivered pursuant thereto and hereto shall be true and correct on and as of the Purchase Price Closing Date with the same effect as though made on and as of the Purchase Price Closing Date; on the Purchase Price Closing Date there shall be no default hereunder or under the Guaranty Agreement or occurrence of any event which, but for the lapse of time or the giving of notice or both, would be such a default; and Lessee's execution and delivery of the Certificate of Acceptance hereunder shall serve to reaffirm the accuracy of such representations, warranties and nondefault.

(f) Lessor shall have received a signed opinion, dated the Purchase Price Closing Date and addressed to Lessor, of (i) such legal counsel for Lessee as is acceptable to Lessor as to the matters set forth in Section 5.2 (other than subparagraph (e) hereof and as to such other matters as Lessor may reasonably request and (ii) such legal counsel for the Guarantors as is

acceptable to Lessor as to the matters set forth in Section 3 (other than subparagraphs (e) and (f) thereof) of the Guaranty Agreement and as to such other matters as Lessor may reasonably request.

(g) Lessor shall have received a certificate, dated the Purchase Price Closing Date, of Lessee and the Guarantors showing the incumbency and the specimen signatures of the officers of Lessee and the Guarantors who will execute this Agreement, the Guaranty Agreement, the Hulk Purchase Agreement, the Equipment Reconstruction Agreement and the other instruments contemplated herein and therein.

(h) Lessor shall have received such evidence of fulfillment of the foregoing conditions of this Section 6.1 including, without limitation, certificates of officers of Lessee, Lessor, the Guarantors, public officials and others, as Lender or its counsel may reasonably require to establish to their satisfaction the fulfillment of such conditions.

6.2. Conditions Precedent to Reconstruction Cost Closing Dates

The obligations of Lessor to finance the Reconstruction Cost of any Unit hereunder on any Reconstruction Cost Closing Date shall be subject to such Reconstruction Cost Closing Date occurring on or prior to December 31, 1984, and to fulfillment of

the following conditions on or prior to such Reconstruction Cost Closing Date to the satisfaction of Lessor and its counsel:

(a) The conditions set forth in Section 6.1 hereof shall have been fulfilled to the satisfaction of Lessor and its counsel or waived by Lessor.

(b) Lessor shall have received the notice required by Section 6.4 hereunder and written disclosure of any material adverse change in the financial condition or operations of Lessee or any Guarantor or of any action or proceeding described in Section 5.2(d) hereof or in Section 3(d) of the Guaranty Agreement which may materially adversely affect Lessee's or any Guarantor's financial condition or operations or which question the legality or validity of this Agreement or the Guaranty Agreement or which may affect Lessee's or any Guarantor's ability to perform their respective obligations hereunder or thereunder.

(c) Lessor shall have received an executed Certificate of Acceptance Upon Reconstruction for the Units to be settled for on such Reconstruction Cost Closing Date.

(d) The representations and warranties of Lessee contained in Sections 5.2(a), (b) and (c) and of the Guarantors contained in Sections 3(a), (b) and (c) of the Guaranty Agreement and of each such party in any certificate delivered pursuant thereto and hereto shall be true and correct on and as of such

Reconstruction Cost Closing Date with the same effect as though made on and as of such Reconstruction Cost Closing Date; on such Reconstruction Cost Closing Date there shall be no default hereunder or under the Guaranty Agreement or occurrence of any event which, but for the lapse of time or the giving of notice or both, would be such a default; and Lender shall have received from each of Lessee and the Guarantors a certificate to such effect respecting the representations, warranties and nondefault, dated such Reconstruction Cost Closing Date and signed by a duly authorized representative of Lessee and the Guarantors, as the case may be.

(e) Lessor shall have received a signed opinion, dated such Reconstruction Cost Closing Date and addressed to Lessor, of (i) such legal counsel for Lessee as is acceptable to Lessor stating the matters set forth in Section 2 of Exhibit B(1) annexed hereto and (ii) such legal counsel for the Guarantors as is acceptable to Lessor in the form provided as Exhibit B(2) annexed hereto.

(f) Lessor shall have received such evidence of fulfillment of the foregoing conditions of this Section 6.2 including, without limitation, certificates of officers of Lessee, the Guarantors, public officials and others, as Lender or its counsel may reasonably require to establish to their satisfaction the fulfillment of such conditions.

6.3. Pre-Closings. All documents to be delivered under this Article VI shall be made available for review at the location of each Closing hereunder not less than one business day prior to each Closing Date hereunder.

6.4. Closings. Each Closing shall take place at the offices of Reed Smith Shaw & McClay, counsel to Lessor, at Two Mellon Bank Center, Pittsburgh, Pennsylvania 15219. The Purchase Price Closing Date shall occur on or before May 15, 1984. The Reconstruction Cost Closing Dates shall be September 4, 1984, November 5, 1984, December 3, 1984 and the earlier of December 31, 1984 or the date of final delivery of a Certificate of Acceptance Upon Reconstruction with respect to any Unit. At least three business days prior to each Reconstruction Cost Closing Date, Lessee shall give Lessor notice (which notice may be telephonic, confirmed in writing) of the nature and description of, and the Lessor's Cost for, the Units for such Closing.

ARTICLE VII. Reports

7.1. Financial Reports. Lessee shall, as soon after the end of each fiscal year of Lessee as practicable (and in any event within 120 days thereafter), furnish to Lessor duplicate copies of the most recent financial reports of Lessee, including the most recent annual report and balance sheet and profit and loss statement of Lessee, each certified by a recognized firm of

certified public accountants. Quarterly statements of Lessee certified by the chief financial or accounting officer of the relevant corporation, shall be furnished to Lessor within fifteen days after their preparation.

7.2. Annual Certificate. Lessee shall furnish to Lessor, concurrently with the delivery of the annual financial statements of Lessee required by Section 7.1 hereof, a certificate signed on behalf of Lessee by the chief financial or accounting officer of Lessee stating as of a recent date (but not more than three months prior thereto):

(a) The make, model and manufacturer's serial number of each Unit;

(b) The manufacturer's serial number of any Unit that has become lost, destroyed, irreparably damaged or otherwise permanently rendered unfit or unavailable for use since the date of the previous report delivered pursuant to this Section 7.2 (or since the commencement of the Term in the case of the first such report);

(c) That the Equipment has been kept in good order and repair or is then being repaired in accordance with Section 8.1 hereof (or has not yet been redelivered by Reconstructor pursuant to the Equipment Reconstruction Agreement); and

(d) That the signer of the certificate has made, or caused to be made by persons under his authority and direction, a reasonable investigation concerning the Equipment and Lessee's compliance with its obligations hereunder, and that no Event of Default, and no condition, event, act or omission which with notice or lapse of time or both would be an Event of Default, has occurred and is continuing or, if any such Event of condition, event, act of omission has occurred and is continuing, the nature thereof and the steps which Lessee has taken or is taking to cure the same.

7.3. Additional Reports. Upon the written request of Lessor at any time and from time to time, Lessee will also deliver to Lessor, within fifteen (15) days of such request, a certificate executed on behalf of Lessee by a duly authorized officer containing the information, as of a date not earlier than the date of such request, called for by Section 7.2(d). Lessee shall also furnish to the Lessor, provided such disclosure is not prohibited by the Interstate Commerce Commission, such additional information concerning the location, condition, use and operation of the Equipment and the financial condition and operations of Lessee as Lessor may reasonably request from time to time, and Lessee shall permit any person designated by Lessor to visit and inspect the Equipment and the records maintained in connection therewith and to discuss the affairs, finances and accounts of Lessee with the principal officers of Lessee, all at such

reasonable times and as often as Lessor may reasonably request. Information received pursuant to this Section 7.3 shall be kept confidential by Lessor; provided, however, that Lessor shall not be prevented from disclosing such information (i) to any affiliate thereof that shall agree to be bound by this obligation of confidentiality, (ii) upon the order of any court or administrative agency, (iii) upon the request or demand of any regulatory agency or authority having jurisdiction over such person (whether or not such request or demand has the form of law), (iv) that has been publicly disclosed, (v) that has been obtained from any person that is neither a party to this Agreement nor an affiliate of any such party, (vi) in connection with the exercise of any remedy hereunder or under any other document contemplated hereunder, (vii) as expressly contemplated by this Agreement or any other document contemplated hereunder or (viii) to any prospective purchaser of all or any part of the interest of any Lessor in this Agreement, any other of the documents contemplated hereunder and the Equipment, or to any prospective lessee of the Equipment, and, unless an Event of Default shall have occurred and be continuing, such purchaser or lessee shall have agreed to comply with the confidentiality undertakings contained in this Section 7.3.

7.4. Accidents. In the event of an accident arising out of alleged or apparent defective design or manufacture or out of the use or operation of any Unit, Lessee shall promptly file with the appropriate governmental agencies all notices required

by law and shall promptly deliver to its insurance carriers all notices called for under each policy of insurance relating to such Unit. Concurrently with such filing or delivery, Lessee shall deliver to Lessor a copy of the notice so filed or delivered. Lessee shall also deliver to Lessor any additional information with respect to such accident which Lessor shall reasonably request and shall promptly make available to Lessor all correspondence, papers, notices and documents whatsoever received by Lessee in connection with any claim or demand involving or relating to any such accident.

7.5. Tax Liens. Lessee shall notify Lessor in writing, within two days after any day on which Lessee has actual knowledge that a tax lien has attached to any Unit, of such lien and of the location of such Unit on such day.

ARTICLE VIII. Maintenance, Use and Operation

8.1. Maintenance and Operation. Lessee, at its own cost and expense, shall service, repair, maintain and overhaul each Unit so as to keep it (i) in as good operating condition as it was when delivered to Lessee hereunder following reconstruction, ordinary wear and tear excepted and (ii) subject to Lessee's Right to Contest, in such condition as shall meet all applicable federal, state or local laws or regulations and the applicable rules of the American Association of Railroads. Lessee shall not use, operate or store any Unit in violation of

this Agreement, of any instructions therefor furnished by the manufacturer or vendor thereof or, subject to Lessee's Right to Contest, of any applicable federal, state or local law or regulation or the applicable rules of the American Association of Railroads; nor use or operate any Unit other than in a manner and for the use contemplated by the manufacturer thereof.

8.2. Location and Insignia. Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the contiguous 48 states of the United States; provided that occasional service in Canada for brief periods shall be permitted when the operational requirements of Lessee or the Guarantors so mandate so long as such service does not involve regular operation and maintenance outside the United States of America. Lessee shall maintain on each Unit the following identification: "Property of and leased from Mellon Financial Services Corporation #3 subject to an agreement filed with the Interstate Commerce Commission"; and shall not remove, or permit the removal of, such identification without the prior written consent of Lessor.

8.3. Supplies. Lessee shall pay for and provide all power, fuel and supplies consumed by and required for each Unit and all repairs, parts and supplies necessary therefor.

8.4. Accessories. Lessee shall not, without the prior written consent of Lessor, affix or install any accessory,

equipment or device on any Unit if such addition will impair the value or the originally intended function or use of such Unit. All repairs, parts, supplies, accessories, equipment and devices furnished or affixed to the Equipment shall thereupon become the property of Lessor (except such as may be removed without in any way affecting or impairing the value or the originally intended function or use of the Equipment). Immediately upon any replacement part becoming incorporated or installed in or attached to the Equipment, without further act, title to the removed part shall thereon vest in Lessee, free and clear of all rights of Lessor.

8.5. Personal Property. Lessee shall not, without the prior written consent of Lessor and subject to such conditions as Lessor may impose for its protection, affix or install any Unit to or in any real property, it being the mutual intention of the parties that the Equipment at all times shall be and remain personal property of Lessor. Lessee shall take such steps as may be necessary to prevent any person from acquiring any rights in any Unit by reason of such Unit being claimed or deemed to be real property.

8.6. Sublease and Assignment. Lessee shall not, without the prior written consent of Lessor (it being understood that written consent in one instance shall apply only in the given instance and shall not constitute a waiver of any of the terms of this Agreement), (a) assign this Agreement or sublease

or let any Unit other than to an affiliate of Lessee or (b) permit any Unit to be operated by anyone other than Lessee or an affiliate of Lessee or their respective employees or persons under their supervision, other than, with respect to clauses (a) and (b) above, in connection with a power pooling agreement or the occasional renting of surplus power in respect of the Equipment for a temporary period in the ordinary course of business and in accordance with standard procedures and practices of the railroad industry provided, however, that any such agreement or other similar arrangement shall by its terms be subject to the rights and remedies of Lessor, shall be with railroad companies incorporated in the United States of America or any State thereof or the Dominion of Canada or any Province thereof and shall not involve service or operation in violation of Section 8.2 or any other provision hereof. For purposes of this Section 8.6, "affiliate" shall mean any corporation controlling, or under common control with, Lessee.

ARTICLE IX. Liens

Lessee will not permit any Unit to be subject to any lien, charge or encumbrance whatsoever except (i) the respective rights of Lessor and Lessee as herein provided, (ii) liens asserted by any person claiming by, through or under Lessor and resulting from acts or omissions of Lessor, except to the extent that such liens, charges or encumbrances arise from the failure of Lessee to perform any of Lessee's obligations hereunder, (iii)

liens for taxes either not yet due or which are subject to Lessee's Right to Contest, (iv) inchoate, materialmen's, mechanics', workmen's, repairmen's, employees' or other like liens arising in the ordinary course of business and not delinquent and (v) liens arising out of judgments or awards against Lessee which are subject to Lessee's Right to Contest.

ARTICLE X. Insurance

10.1. Physical Damage Insurance. At its own expense, Lessee shall maintain physical damage insurance on each Unit against fire and such other perils and in such amounts as are usually carried by corporations engaged in the same or a similar business and similarly situated to Lessee; provided, however, that in no event shall the amount of such insurance, subject to such deductible, if any, as shall be set forth in the Lease Schedule, at any time be less than the greater of (a) the aggregate fair market value or (b) the aggregate Stipulated Loss Value of all Units then leased hereunder.

10.2. Liability Insurance. At its own expense, Lessee shall maintain insurance protecting the interests of both Lessor and Lessee against liability for property damage to third persons and personal injury or death arising out of the maintenance, use, operation and ownership of the Equipment, in such amounts as are usually carried by corporations engaged in the same or similar businesses and similarly situated to Lessee; provided, however,

that in no event shall the amount of such insurance per person and per occurrence (subject to such deductible, if any, as shall be set forth in the Lease Schedule) be less than the amount set forth in the Lease Schedule.

10.3. General Insurance Provisions. All insurance required by Sections 10.1 and 10.2 of this Agreement or otherwise maintained with respect to the Equipment shall name Lessor and Lessee as insured parties, shall be maintained with responsible insurance companies meeting such reasonable standards as may from time to time be established by Lessor and shall provide that the coverage thereunder may be altered or cancelled only after not less than 30 days' prior written notice to Lessor.

10.4. Payment of Premium by Lessor. In the event that Lessee shall fail to obtain or maintain insurance in accordance with the provisions of this Agreement, Lessor shall have the right to obtain, and pay the premiums on, such insurance as Lessor deems necessary and Lessee shall, upon demand, reimburse Lessor in an amount equal to the amount of such premiums paid plus interest at the Interest Payment Rate from the date of such payment to the date of such reimbursement.

ARTICLE XI. Assumption of Risk; Indemnification

11.1. General. Lessee does hereby assume liability for, and does hereby agree to indemnify, protect, save and keep

harmless Lessor and its respective successors, assigns, representatives, directors, officers, employees, agents and servants from and against, and, subject to Lessee's Right to Contest, does hereby agree to pay, when due, as Additional Rent, all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including legal fees and expenses, of whatsoever kind or nature, whether seen or unforeseen, imposed upon, incurred by or with respect to or asserted against any Unit, Lessor or its respective successors, assigns, representatives, directors, officers, employees, agents or servants, in any way relating to or arising out of the manufacture, purchase, acceptance or rejection, ownership, delivery, lease, use, possession, operation, condition, repair, replacement, reconstruction, return or other disposition of any Unit, including without limitation those in any way relating to or arising out of or alleged to arise out of (i) any latent or other defects whether or not discoverable by Lessor or Lessee, (ii) any claim for patent, trademark or copyright infringement, (iii) any claim based on strict liability in tort, (iv) any claim by or on behalf of Reconstructor arising under or by virtue of the Equipment Reconstruction Agreement or for work performed in respect of any Unit, except as and to the extent that Lessor (in the capacity of owner) shall have expressly agreed to be obligated to Reconstructor under the Equipment Reconstruction Agreement, (v) all filing, recordation and other fees and expenses paid or payable by Lessor, and (vi) any and all license fees, assessments and sales, use, rent,

property and other taxes now or hereafter imposed by any federal, state or local government upon any Unit or its use or payments hereunder, or upon this Agreement (excluding, however, taxes, fees and other charges based upon or measured by Lessor's net income, together with interest and penalties with respect thereto, but including such taxes, fees and other charges if such taxes, fees and other charges would not have been imposed on Lessor but for the use, possession or operation of the Equipment in a particular jurisdiction, including without limitation, Canada), whether the same shall be payable by or billed or assessed to Lessor, or Lessee, together with any penalties or interest in connection therewith; provided, however, that nothing in this Section 11.1 shall be construed so as to require Lessee to indemnify Lessor for Lessor's own gross negligence or willful misconduct. Lessee shall be obligated under this Section 11.1 irrespective of whether Lessor, or any of its respective successors, assigns, representatives, directors, officers, employees, agents or servants shall also be indemnified with respect to the same matter under any other agreement by any other person. In the event Lessee is required to make any payment under this Section 11.1, Lessee shall pay to Lessor an amount which after deduction of all taxes required to be paid by Lessor, or any other person indemnified hereunder in respect of the receipt of such payment (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of such other taxes) shall be equal to the amount of

such payment. Lessee and Lessor each agree to give the others promptly upon obtaining knowledge thereof written notice of any claim or liability hereunder indemnified against; provided, however, that the failure to give such notice shall not in any way affect, impair or diminish Lessee's obligations hereunder.

11.2. Indemnifications as to Income Tax Matters.

(a) Lessor has informed Lessee that the rental rate specified in the Lease Schedule has been calculated on the basis that the assumptions set forth in paragraph 10 of the Lease Schedule will be true for Federal, state and local income tax purposes. Subject to Section 11.2(b) below, a loss ("Loss") shall be deemed to have occurred for purposes of this Agreement if it is finally determined for Federal, state or local income tax purposes by the Internal Revenue Service or a court of competent jurisdiction, or Lessor is advised by its independent tax counsel that there is not a reasonable basis for an opinion contrary to the view, that (1) Lessor is not entitled to all or any portion of the Investment Tax Credit or the Depreciation Deductions described in the Lease Schedule, (2) the Investment Tax Credit or Depreciation Deductions are recaptured in whole or in part pursuant to Sections 47 or 1245, respectively, of the Internal Revenue Code of 1954, as amended (the "Code"), (3) Lessor is required to include in its gross income any

amount with respect to any improvement, modification or addition made to any Unit by the Lessee or any permitted sublessee or assignee, other than an alternative, modification or addition which is permitted without adverse tax consequences under Revenue Procedures 75-21, 76-30 or 79-48. If there is a Loss for Federal income tax purposes, such Loss shall include any increase in state or local income tax liability resulting from a similar adjustment required for state or local income tax purposes.

(b) Payments shall be made to Lessor as Additional Rent as provided in Section 11.2(c) if a Loss shall have occurred as the result, in whole or in part, directly or indirectly, of (1) any act, failure to act, or use of the Units by Lessee or any other person not so authorized in writing by Lessor, (including, without limitation, any such use of the Units in any manner which is inconsistent with the status of the Units as "section 38 property" or which would prevent deductions for cost recovery with respect to the Units as described in the Lease Schedule, even if such use is permitted hereunder), (2) any failure by Lessee to act in accordance with the terms of this Agreement, (3) the incorrectness of any of Lessee's representations and warranties set forth in this Agreement or in any document delivered in connection herewith, (4) a breach by Lessee of any of its covenants, warranties or agreements set forth herein, (5) the Units being treated by the Internal Revenue

Service (or other taxing authority) or by a court, in connection with a Loss, as "limited use" property as that term is used in Rev. Proc. 75-21, 1975-1 C.B. 715, and Rev. Proc. 76-30, 1976-2 C.B. 647 or (6) any work performed on the two Units described in Annex A to Hulk Purchase Agreement #1 prior to the Purchase Price Closing Date; provided, however, that a Loss shall not be deemed to have resulted from any change to or amendment of applicable Federal income tax law after December 31, 1984. For purposes of this Agreement, the following shall not be deemed to result in a Loss: (i) an Event of Loss as defined in Section 12.1 hereof with respect to a Unit, if Lessee shall have paid to Lessor the Stipulated Loss Value provided for in Section 12.2 hereof, as the same may be revised; provided, however, that such payment of Stipulated Loss Value by Lessee shall not relieve Lessee of any obligation it would have to indemnify Lessor for a Loss (determined without regard to this clause (i)), to the extent that such Loss is not reflected in the Stipulated Loss Value and is attributable to a final determination of a Loss relating back to a time prior to the Event of Loss; (ii) provided no Event of Default under this Agreement shall have occurred and then be continuing, a voluntary transfer or other voluntary disposition by Lessor of any interest in a Unit or the voluntary reduction by Lessor of its interest in the rentals from a Unit under this Agreement; (iii) the failure of Lessor to timely claim (other than a failure based on the

opinion of Lessor's independent tax counsel that there is not a reasonable basis for such claim) any portion of the Depreciation Deductions or Investment Tax Credit, as applicable, on its Federal income tax return for the appropriate year or the failure of Lessor to follow proper procedure in claiming any thereof; or (iv) the failure of Lessor to have sufficient income to benefit from the Depreciation Deductions or Investment Tax Credit.

(c) (i) In the case of a Loss of the Investment Tax Credit for which Lessee is required to pay an indemnity, Lessee shall pay to the Lessor in a single payment as Additional Rent an amount which, after subtracting the amount of all Federal, state and local income taxes ("income taxes") payable by Lessor in respect of the receipt thereof, shall equal the sum of the amount of the Investment Tax Credit so lost plus any interest, penalties or additions to tax, including any additions to tax because of underpayment of estimated tax ("interest or additions to tax") payable by Lessor in respect of such Loss, less the amount of any decrease in income taxes payable by Lessor that would result from the claiming of allowable deductions from gross income with respect to such interest or additions to tax.

(ii) In the case of a Loss of Depreciation Deductions with respect to any taxable year for which Lessee is required to pay an indemnity, Lessee shall pay to Lessor

from time to time, as Additional Rent, an amount which, after subtracting the amount of all income taxes payable by Lessor in respect of the receipt thereof, shall be sufficient to preserve for Lessor the yield and cash flow that Lessor expected to realize from the transaction. Lessee shall also pay to Lessor, as Additional Rent, an amount which, after subtracting the amount of all income taxes payable by Lessor in respect of the receipt thereof, shall be equal to the amount of any interest or additions to tax payable by Lessor in respect of such Loss, less the amount of any decrease in the income taxes payable by Lessor that would result from the claiming of allowable deductions from gross income with respect to such interest or additions to tax.

(iii) In the case of a Loss as a result of improvement, modification or addition to any Unit ("Improvement"), Lessee shall pay to Lessor from time to time, as additional rent, an amount which, after subtracting the amount of all income taxes payable by Lessor in respect of the receipt thereof and after taking into account all tax benefits available to Lessor as a result of such Improvement, shall be sufficient to preserve for Lessor the yield and cash flow that Lessor expects to realize from the transaction under the Base Term. Lessee shall also pay to Lessor, as Additional Rent, an amount which, after subtracting the amount of all income taxes payable by Lessor in respect of the receipt thereof, shall be equal to the

amount of any interest or additions to tax payable by Lessor in respect of such Loss, less the amount of any decrease in the income taxes payable by Lessor that would result from the claiming of allowable deductions from gross income with respect to such interest or additions to tax.

(d) In the event the Internal Revenue Service or any state or local taxing authority proposes adjustments to the Investment Tax Credit or Depreciation Deductions which, if successful, could result in a Loss for which Lessee would be required to indemnify Lessor pursuant to this Section 11.2, Lessor hereby agrees to notify Lessee promptly of such proposed adjustment, to withhold payment of the tax claimed to be due for a period of 30 days after giving such notice, and to exercise in good faith its best efforts (determined by Lessor in Lessor's sole discretion to be reasonable and proper and not requiring administrative or judicial proceedings beyond the level of an Internal Revenue Service examining agent, in the case of a proposed adjustment in an amount less than \$50,000, or beyond the level of an Internal Revenue Service appellate review, in the case of a proposed adjustment in an amount equal to or greater than \$50,000) to avoid requiring Lessee to pay such indemnity, provided that Lessee shall have first agreed to indemnify Lessor in a manner satisfactory to Lessor for any liability or loss which Lessor may incur as a result of contesting such adjustments and shall have agreed to pay Lessor on demand

all costs and expenses which Lessor may incur in connection with contesting such adjustments including without limitation reasonable attorneys', accountants', engineers' and like professional fees and disbursements.

(e) Lessee acknowledges that Lessor has entered into this Agreement with the expectation that all Rent received hereunder and all deductions relating to such Rent will, for federal income tax purposes, be treated as being from or attributable to sources within the United States. Lessee agrees to notify Lessor, no later than February 15 of each year, of the amount of Rent, if any, paid under this Agreement which is deemed to be derived from or attributable to sources outside the United States as a result of Lessee's use of any Unit on Units outside the United States.

In the event any amount includable in the gross income of Lessor with respect to any one or more of the Units or any deduction allowable to Lessor with respect to such Unit or Units shall be treated as derived from or attributable to sources outside the United States, Lessee shall pay to Lessor as Additional Rent, after written request of Lessor, an amount which, after deduction of Federal, state and local income taxes, and interest and penalties required to be paid by Lessor with respect to the receipt of such Additional Rent, will (in the reasonable opinion of Lessor) cause Lessor's net yield and cash flows in respect of such Unit or Units to equal the net yield and cash flows that Lessor had

expected to realize had such income or deductions not been treated as having been derived from or attributable to sources outside the United States. Such Additional Rent shall be payable within ten days after receipt of written request from Lessor. In determining the Additional Rent due under this paragraph, Lessor shall take into account any additional Federal income tax benefits actually realized by Lessor for the taxable year as a result of such income or deductions being treated as "foreign source" items, provided however, Lessor shall not be required to maximize such additional Federal income tax benefits available to Lessor with respect to such "foreign source" items if it is not in the best tax interests of Lessor, as determined by Lessor in its sole discretion.

(f) Reference in this Section 11.2 to Lessor shall include any affiliated group of which Lessor is a member for purposes of filing consolidated tax returns, provided that only Lessor shall be obligated with respect to the covenants and duties imposed herein on Lessor.

11.3. Survival of Obligations. This Article XI shall become and be effective and in full force and effect from the date of this Agreement (even though no Equipment may have been accepted by Lessee and even though the Term may not have commenced) and shall remain in effect notwithstanding the expiration or other termination of the Term insofar as it relates

to an event or state of facts which occurred or existed or which is alleged to have occurred or existed prior to such expiration or termination.

ARTICLE XII. Damage to Property

12.1. Duty to Notify. In the event any Unit shall be lost, stolen, destroyed, damaged beyond repair or permanently rendered unfit for use for any reason whatsoever, or title thereto shall be requisitioned or taken by any governmental authority under the power of eminent domain or otherwise (herein referred to as an "Event of Loss"), or any Unit shall not be susceptible of reconstruction at a reasonable cost pursuant to the terms of the Equipment Reconstruction Agreement (herein referred to as a "Failed Reconstruction"), Lessee shall promptly notify Lessor as to the circumstances and time of such event.

12.2. Stipulated Loss Value. Effective upon the happening of an Event of Loss with respect to any Unit Lessee shall become obligated, without demand or notice, to pay to Lessor on the Rental Payment Date next following such Event of Loss an amount equal to the Stipulated Loss Value for such Unit as of such Rental Payment Date together with all Basic Rent due on such Rental Payment Date. Effective upon the happening of Failed Reconstruction with respect to any Unit Lessee shall become obligated, without demand or notice, to pay to Lessor on the Rental Payment Date next following such Failed Reconstruction

an amount (the "Failed Reconstruction Payment") equal to the Lessor's Cost of such Unit together with interest on such amount computed at a rate of 13.75% per annum for the period commencing on the Purchase Price Closing Date with respect to such Unit and ending on the Rental Payment Date such Failed Reconstruction Payment is due and owing. The obligation of Lessee to pay Rent for any such Unit upon an Event of Loss or Failed Reconstruction shall cease when such Stipulated Loss Value or Failed Reconstruction Payment and Rent payment has been made and such Unit shall cease to be part of the Equipment leased hereunder effective as of such payment. Upon request of Lessee, Lessor will execute and deliver an appropriate document cancelling or amending the Certificate of Acceptance pursuant to which such Unit was leased under this Agreement, but Lessor's failure so to do shall not affect Lessee's obligations under this Agreement, and Lessor will transfer to Lessee, without recourse or warranty (other than the warranty of title which Lessor received from Seller), all of Lessor's right, title and interest, if any, in and to such Unit.

12.3. Insurance and Condemnation Proceeds. Any and all insurance or other payments received by Lessor or Lessee (except under any insurance policy maintained pursuant to Section 10.2 hereof) as a result of any Event of Loss of a Unit shall be paid to or retained by Lessor and applied against Lessee's obligation to pay the Stipulated Loss Value.

ARTICLE XIII. Return of Property

At the expiration or sooner termination of the Term, Lessee shall return the respective Units to Lessor, free of all Lessee advertising or insignia placed thereon by Lessee, and in the same operating order, repair, condition and appearance as when received by Lessee after reconstruction, excepting only for reasonable wear and tear and damage by any cause covered by collectible insurance. Lessee shall pay or reimburse Lessor for the cost of all repairs necessary to restore such Unit to such condition. Lessee shall return each Unit to Lessor at the location designated by Lessor at the Lessee's expense. If the Lessor so requests, the Lessee will defer such return of any of the Units and will, without expense to the Lessor, store same at premises of Lessee used by Lessee for the storage of similar property and approved by the Lessor, for a period not to exceed 180 days from the date of the expiration or sooner termination of the Term, the obligations of the Lessee during that interval in respect to the Units being that of reasonable care under all the circumstances; provided, however, that the foregoing shall not impose upon Lessee any responsibility for maintenance, overhaul, or any other expense during such storage. If Lessor so requests, Lessee shall continue to maintain insurance upon such Units in accordance with Article X hereof and Lessor shall reimburse Lessee for the cost of such insurance allocable to such Equipment.

ARTICLE XIV. Defaults; Remedies

14.1. Defaults; Remedies. If during the Term of this Agreement one or more of the following events ("Events of Default") shall occur:

(a) Default shall be made in the payment when due of any Rent herein provided; or

(b) Lessee shall agree to sell, transfer, encumber or sublet any Unit except subject to Lessor's consent or except as expressly permitted under this Agreement; or

(c) Default shall be made in the observance or performance of any other covenants, conditions and agreements on the part of Lessee contained herein, or on the part of any Guarantor contained in the Guaranty Agreement, and such Default shall continue for ten days after written notice from the Lessor to the Lessee or such Guarantor specifying the Default and demanding the same to be remedied; or

(d) A proceeding shall have been instituted in a court having jurisdiction in the premises, seeking a decree or order (i) for relief in respect of Lessee or any Guarantor in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect

or (ii) for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Lessee or any Guarantor or of their respective properties, or (iii) for the winding up or liquidation of the affairs of the Lessee or any Guarantor; and either (I) any such proceeding shall remain undismissed or unstayed and in effect for a period of 30 consecutive days or (II) such court shall enter a decree or order granting the relief sought in such proceeding; or

(e) Lessee or any Guarantor shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of Lessee or any Guarantor or for any substantial part of their respective properties, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay their respective debts as they become due, or shall take any corporate action in furtherance of any of the foregoing; or

(f) An event of default under any mortgage, indenture or other agreement or lease evidencing indebtedness of the Lessee or Guilford shall have occurred which shall result in

the declaring due and payable of indebtedness of Lessee or Guilford in an amount in excess of \$100,000 prior to the date on which it would otherwise have become due and payable, and such declaration shall not have been satisfied, rescinded or annulled within ten days and, in the case of an event of default in respect of Lessee, is not being contested by Lessee under Lessee's Right to Contest; or

(g) Lessee shall have knowledge that there has occurred and is continuing any condition, event, act or omission which it reasonably believes constitutes, or with notice or lapse of time would constitute, an Event of Default, and shall fail promptly to notify Lessor of such condition, event, act or omission;

(h) Any representation or warranty made by Lessee in this Agreement, in any Certificate of Acceptance, or Certificate of Acceptance Upon Reconstruction, or by the Guarantors in the Guaranty Agreement, or any information furnished by Lessee or the Guarantors in any instrument, certificate or other document delivered by or on behalf of Lessee or the Guarantors pursuant hereto, shall prove to be false and misleading in any material respect; or

(i) Guilford, an entity controlled by Guilford or a railroad company or railroad holding company whose unsecured obligations or uncollateralized long term debt obligations

are rated at least Aa or AA by Moody's Investors Service, Inc. or Standard & Poor's Corporation, respectively, shall own less than 51% of the outstanding common stock of Lessee and a period of 60 days shall have elapsed from the date of such loss of majority ownership of Lessee;

then, in any such case, the Lessor at its option may:

A. Proceed by appropriate court action or actions either at law or in equity to enforce performance by Lessee of the applicable duties and obligations of Lessee under this Agreement or to recover from Lessee any and all damages or expenses, including reasonable attorneys' fees, which Lessor shall have sustained by reason of Lessee's Default or on account of Lessor's enforcement of its remedies hereunder; or

B. By notice in writing to Lessee, terminate this Agreement, whereupon all right of Lessee to the use of the Equipment shall absolutely cease and terminate as though this Agreement had never been made, but Lessee shall deliver possession of the Equipment to Lessor in accordance with Article XIII hereof and Lessee shall remain liable as hereinafter provided; and thereupon, Lessor may by its agents and without notice to Lessee enter upon the premises of Lessee or other premises where the Units may be located and take possession of all or any such Units and thenceforth

hold, possess and enjoy the same free from any right of Lessee, or its successors or assigns, to use the Units for any purpose whatever.

Upon such termination, Lessor shall have the right to recover forthwith from Lessee as damages for loss of the bargain and not as a penalty and as reasonable rent for the use of the Equipment and for the depreciation thereof, the sum of the following:

(1) an amount with respect to each Unit which represents the excess of the Stipulated Loss Value of such Unit over one of the following, as Lessor may in its sole discretion elect: (x) in the event Lessor shall sell such Unit, the net proceeds of such sale, (y) in the event Lessor shall re-lease such Unit, the net rents payable under the terms of such re-leasing for a period equal to the remaining term of this Agreement, discounted to the time of computation at the Interest Payment Rate, or (z) the fair market value of such Unit at the time of such termination;

(2) all due and unpaid Rent for the Equipment to the date of termination;

(3) an amount equal to accrued taxes and other amounts payable hereunder by Lessee with respect to the Equipment;

(4) all costs, expenses, losses and damages incurred or sustained by Lessor by reason of such Default; and

(5) interest at the Interest Payment Rate on each of the foregoing from the date upon which such amounts were first payable which date, in the case of the amounts payable pursuant to clause (1) above, shall be the date upon which the Event of Default which results in the termination of this Agreement first occurs.

If on the date of such termination or repossession, any Unit shall be damaged, lost, stolen or destroyed, or be subject to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency, Lessee shall remain liable for the Stipulated Loss Value pertaining to such Unit less the amount of any insurance recovery received by Lessor in connection therewith.

14.2. Remedies Cumulative; Waiver of Requirements.

The remedies in this Agreement provided in favor of Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. TO THE EXTENT THAT SUCH WAIVER IS PERMITTED BY LAW, LESSEE HEREBY WAIVES ANY MANDATORY REQUIREMENTS OF LAW, NOW OR HEREAFTER IN EFFECT, WHICH MIGHT LIMIT OR MODIFY ANY OF THE REMEDIES HEREIN PROVIDED, INCLUDING WITHOUT LIMITATION ANY RIGHT

WHICH LESSEE MAY HAVE TO NOTICE AND HEARING PRIOR TO THE REPOSSESSION AND SALE OR LEASING OF ANY UNIT.

ARTICLE XV. Assignment by Lessor

Lessee acknowledges and understands that the terms and conditions of this Agreement have been agreed to by Lessor in anticipation of its being able to assign its interest and its obligations under this Agreement and its interest in and to the Equipment leased hereunder to a bank or other lending institution or to others having an interest in the Equipment or this transaction, all or some of which will rely upon and be entitled to the benefit of the provisions of this Article XV. Lessee agrees with Lessor and with such bank or other lending institution or such other party (for whose benefit this covenant is expressly made) and in consideration of the provisions hereof, as follows: (i) to recognize any such assignment, (ii) to accept the directions or demands of such assignee in place of those of Lessor, (iii) to surrender the Equipment only to such assignee, and (iv) to pay all Rent payable hereunder and to do any and all things required of Lessee hereunder and not to terminate this Agreement, notwithstanding any Default by Lessor or the existence of any offset as between Lessor and Lessee or the existence of any other liability or obligation of any kind or character on the part of Lessor to Lessee whether or not arising hereunder. It is expressly understood and agreed that such assignment by Lessor

pursuant to this Article XV shall relieve Lessor from its obligations to Lessee hereunder.

ARTICLE XVI. Quiet Possession

So long as no Event of Default hereunder shall have occurred and be continuing, Lessor shall not do (nor suffer to be done by any person claiming by, through or under Lessor with respect to matters not related to the transactions contemplated by this Agreement) any act which will interfere with the right of Lessee peaceably and quietly to hold, possess and use the Equipment during the Term and in accordance with the provisions of this Agreement.

ARTICLE XVII. Further Assurances

Lessee and Lessor will promptly and duly execute and deliver to the other party hereto such further documents and assurances and take such further action as Lessor or Lessee may from time to time reasonably request in order to carry out more effectively the intent and purpose of this Agreement and to establish and protect the rights and remedies created or intended to be created in favor of Lessor or Lessee hereunder, including, without limitation, if requested by Lessor or Lessee, in any case at the expense of Lessee, the execution and delivery of supplements or amendments hereto, in recordable form subjecting to this Agreement any replacement property and the recording or

filing of counterparts hereof, or of financing statements with respect thereto in accordance with the laws of such jurisdiction as Lessor or Lessee may from time to time deem advisable.

ARTICLE XVIII. Miscellaneous

Nothing herein contained shall give or convey to Lessee any right, title or interest in and to any Unit leased hereunder except as a lessee. The obligations of Lessor hereunder shall be suspended to the extent that it is hindered or prevented from complying therewith because of labor disturbances (including strikes and lockouts), war, Acts of God, fires, storms, accidents, governmental regulations or interference or any cause whatever beyond its control. No obligation of Lessor hereunder shall survive the Term, and should Lessor permit the use of any Unit beyond such Term, the obligations of Lessee hereunder shall continue and such permissive use shall not be construed as a renewal of the Term hereof nor as a waiver of any right or continuation of any obligation of Lessor hereunder, and Lessor may take possession of any such Unit at any time after the Term upon demand after five days' notice. Any cancellation or termination by Lessor pursuant to the provisions of this Agreement shall not release Lessee from any then outstanding obligations to Lessor hereunder. This Agreement constitutes the entire agreement between the parties and there are no warranties (in respect of the Equipment or otherwise), express or implied, or collateral or contemporaneous agreements that affect its

import other than such as are contained herein and in the Guaranty Agreement, the Hulk Purchase Agreement and the Equipment Reconstruction Agreement. This Agreement may be modified, amended or mutually rescinded only by a written instrument executed by each of the parties hereto. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and, subject to Section 8.6 hereof, their respective successors and assigns. Time is of the essence of this Agreement. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Pennsylvania. Any document required to be delivered hereunder in executed form or otherwise may be delivered by telecopier.

ARTICLE XIX. Notices

Any notices required or permitted under this Agreement, or by law in respect of this Agreement, shall be in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class, postage prepaid, or when sent by telex or prepaid telegraph, addressed to the party required to receive the same at the address set forth below such party's signature hereto, or to such other address as such party shall specify by like notice.

ARTICLE XX. Fees and Expenses.

Lessor shall not be responsible for the fees or disbursements of Lessee or the Guarantors, or their counsel or any broker. Lessee agrees to pay and save Lessor harmless against liability for the payment of all reasonable fees and expenses of Messrs. Reed Smith Shaw & McClay, counsel to Lessor, arising in connection with the preparation, putting into effect and administration of this Agreement and the documents contemplated hereby.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date first above written.

MELLON FINANCIAL SERVICES
CORPORATION #3, Lessor

By: Jerry S. Vaughan
Title: President

Address: Suite 3030
One Mellon Bank Center
Mellon Square
Pittsburgh, PA 15258
Attention: President

Attest: Pat. J. Can
Secretary

[CORPORATE SEAL]

BOSTON AND MAINE CORPORATION

By: Daniel G. Fink
Title: Chairman and Chief Executive Officer

Address: High Street
Iron Horse Park
N. Billerica, Mass.
01862-1682
Attention: Stuart Parks

cc: Guilford Transportation
Industries, Inc.
171 Orange Street
New Haven, Conn. 06510
Attention: Robert W. Anestis,
Esq.
and
Kirkpatrick, Lockhart, Johnson
& Hutchison
1500 Oliver Building
Pittsburgh, Pa. 15219
Attention: John C. Rodney,
Esq.

LEASE SUPPLEMENT
to
AGREEMENT AND LEASE
dated as of May 1, 1984
between
MELLON FINANCIAL SERVICES CORPORATION #3, Lessor
and
BOSTON AND MAINE CORPORATION, Lessee

Duty to First Offer. If at any time during the period commencing 120 days prior to and ending 60 days after the expiration of the Term or any renewal thereof as hereinbelow provided Lessor decides to sell the Equipment or any portion thereof and if Lessee is not in default hereunder, Lessor shall give Lessee notice of Lessor's intention to sell the same. Within 30 days of such notice, Lessee shall have the right to purchase the Equipment or such portion of the Equipment as Lessor desires to sell for its then fair market value. Fair market value shall be determined by agreement between Lessor and Lessee. If Lessor and Lessee are unable to agree, fair market value shall be determined by The American Appraisal Company.

Option to Lease. If Lessee is not in default hereunder, Lessee shall have the right to lease all, but not less than all, of the Units at the expiration of the Term therefor for an additional two year period for a quarterly rental, payable quarterly in arrears, equal to 1.93009% of Lessor's Cost, such right to be exercisable by written notice given at least 120 days prior to the end of the Basic Term.

LEASE SCHEDULE
to
AGREEMENT AND LEASE
dated as of May 1, 1984
between
MELLON FINANCIAL SERVICES CORPORATION #3, Lessor
and
BOSTON AND MAINE CORPORATION, Lessee

1. Description of Equipment:

20 General Motors Corporation Electro-Motive Division diesel electric, 4 axle, 2300 horsepower locomotives, EMD Model GP39-2, numbered 7601 through 7620, to be reconstructed pursuant to the Equipment Reconstruction Agreement

2. Location of Equipment:

Continental United States - 48 contiguous states - and occasional service in Canada for brief periods when the operational requirements of Lessee or the Guarantors so mandate so long as such service does not involve regular operation and maintainance outside the United States of America.

3. Final Delivery Date:

January 31, 1985

4. Interest Payment Rate:

14.75%

5. Term:

a. Interim Term. From the date as of which the parties execute and deliver a Certificate of Acceptance with respect to a Unit until the commencement of the Base Term with respect to the Unit.

b. Base Term. A period of 11 years beginning on the date as of which the parties execute and deliver a Certificate of Acceptance Upon Reconstruction with respect to the final Unit or on the Final Delivery Date, whichever is earlier.

6. Purchase Price:

Not to exceed \$11,500,000 in the aggregate for all the Units.

7. Rent:

a. Interim Rent. On each Interim Rental Payment Date, Lessee shall pay to Lessor by wire transfer Interim Rent with respect to each Unit determined as follows:

$$LC \times 0.12 \times \frac{N}{360}$$

Where LC equals the Lessor's Cost of the Unit and N equals the number of days in the period beginning on the later of the Closing Date on which such Lessor's Cost is financed or the most recent Interim Rental Payment Date to which Interim Rent has been paid ending on the current Interim Rental Payment Date.

b. Basic Rent. With respect to any Unit received from Reconstructor pursuant to a Certificate of Acceptance Upon Reconstruction dated December 31, 1984 or prior thereto, on the first Basic Rental Payment Date and on each of the 21 succeeding Basic Rental Payment Dates Lessee shall pay to Lessor by wire transfer Basic Rent equal to 3.47415% of the Lessor's Cost of the Unit, and on the 23rd Basic Rental Payment Date and each of the 21 succeeding Basic Rental Payment Dates Lessee shall pay to Lessor by wire transfer Basic Rent equal to 4.24619% of the Lessor's Cost of the Unit. With respect to any Unit received from Reconstructor pursuant to a Certificate of Acceptance Upon Reconstruction dated after December 31, 1984, on the first Basic Rental Payment Date and on each of the 21 succeeding Basic Rental Payment Dates Lessee shall pay to Lessor by wire transfer Basic Rent equal to 3.6447% of Lessor's Cost of the Unit, and on the 23rd Basic Rental Payment Date and each of the 21 succeeding Basic Rental Payment Dates Lessee shall pay to Lessor by wire transfer Basic Rent equal to 4.45463% of the Lessor's Cost of the Unit. Each installment of Basic Rent shall be for the quarter immediately preceding the Basic Rental Payment Date on which such installment is due and payable.

c. Adjustment of Basic Rent. In the event that on or before the final Closing Date it is determined that any of the tax assumptions set forth in paragraph 10 below is incorrect, then, in such event, the amount of each payment of Basic Rent shall be adjusted to such amounts as shall, in Lessor's reasonable opinion, maintain Lessor's net after-tax yield and cash flows (computed on the same assumptions as utilized by Lessor in originally evaluating the transaction)

at the same level that would have been available had said assumptions been true.

8. Rental Payment Dates:

a. Interim Rental Payment Dates: September 4, 1984, November 5, 1984, December 3, 1984 and the first day of the Base Term.

b. Basic Rental Payment Dates: The day which is three months after the day on which the Base Term commences and the same calendar day of each third succeeding month during the Base Term (or in case there is no such day in a month, on the last day of such month).

9. Insurance: The insurance required to be carried by Lessee pursuant to Section 10.1 of the Agreement may be subject to a deductible of not more than \$50,000 per occurrence. The insurance required to be carried by Lessee pursuant to Section 10.2 of the Agreement shall be in an amount of not less than \$10,000,000 per occurrence and may be subject to self-insurance in an amount of not more than \$1,000,000.

10. Assumed Tax Benefits: a. Representations and Warranties. Lessee represents and warrants that at the time the Equipment is delivered by the Reconstructor pursuant to the Equipment Reconstruction Agreement, those portions of the Units comprising the Reconstruction Cost will be new "section 38 property" within the meaning of Section 48(b) of the Code.

b. Investment Tax Credit. The Reconstruction Cost of all Units shall be not less than 40.65% of Lessor's Cost of such Units and Lessor shall be entitled to an Investment Tax Credit under section 38 of the Code with regard to Reconstruction Cost of the Units in the year in which the Units are accepted under the Lease upon reconstruction, such Investment Tax Credit to be no less than ten percent of the Reconstruction Cost of each Unit.

c. Depreciation Deductions. Lessor shall be entitled to claim (i) "depreciation deductions" under section 167 of the Code utilizing the 150% declining balance method over a useful life of 12 years (assuming a zero salvage value) based on the purchase price paid for each Unit under the Hulk Purchase Agreement beginning in the year a Certificate of Acceptance is delivered with respect to such Unit and (ii) "cost recovery deductions" under section 168 of the Code in an amount equal to 15% of 95% of the Reconstruction Cost of each Unit in the year a Certificate of Acceptance Upon Reconstruction is delivered with respect to such Unit and, beginning in the next subsequent year, annual cost recovery deductions in an amount equal to 22%, 21%, 21% and 21% of 95% of such Reconstruction Cost.

11. Stipulated Loss Value. See Annex 1 to this Lease Schedule.

APPROVED AND AGREED TO as of the _____ day of _____
as the Lease Schedule to and forming a part of the above-
described Agreement and Lease.

MELLON FINANCIAL SERVICES
CORPORATION #3, Lessor

By: _____

Title: _____

BOSTON AND MAINE
CORPORATION, Lessee

By: _____

Title: _____

CERTIFICATE OF ACCEPTANCE

No. _____ dated the _____ day of _____

to Agreement and Lease (the
"Agreement") dated as of May 1, 1984
between MELLON FINANCIAL SERVICES CORPORATION #3, ("Lessor") and
BOSTON AND MAINE CORPORATION, ("Lessee")

THIS CERTIFICATE OF ACCEPTANCE is executed pursuant to
the Agreement and the terms herein shall have the meanings
ascribed to them in the Agreement.

Lessor and Lessee do hereby confirm and agree that (i)
the Units described in Attachment 1 hereto, having an aggregate
Lessor's Cost as set forth below, have been delivered as of the
date hereof at the location or locations indicated on said
Attachment 1, (ii) such Units have been duly accepted by Lessee
as part of the Equipment for leasing under the Agreement, (iii)
such Units are hereby made subject to, and the rights and duties
of the parties with respect thereto shall be governed by, the
Agreement and (iv) Lessee has become obligated to pay Interim
Rent in the amount set forth below:

Lessor's Cost: \$ _____

Interim Rent: \$ _____ per day

Lessee confirms that it has caused to be affixed to each Unit described in Attachment 1 hereto the identification tag indicating Lessor's ownership of such Unit as required by the Agreement.

WITNESS the due execution hereof as of the day and year first above written.

LESSEE:
BOSTON AND MAINE CORPORATION

LESSOR:
MELLON FINANCIAL SERVICES
CORPORATION #3

By: _____

By: _____

Title: _____

Title: _____

BILL OF SALE

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, and intending to be legally bound hereby, GUILFORD TRANSPORTATION INDUSTRIES, INC. (the "Vendor") has bargained, sold, conveyed, transferred and assigned and by these presents does hereby bargain, sell, convey, transfer and assign to MELLON FINANCIAL SERVICES CORPORATION #3 ("Lessor"), its successors and assigns, forever, good and marketable title to the personal property described in SCHEDULE 1 attached hereto (the "Units").

The Vendor hereby covenants and warrants to the Lessor, its successors and assigns, that the Vendor is the lawful owner of the Units and has full power and authority to sell the same as aforesaid, and the Units are on the date hereof free and clear of all claims, liens, encumbrances and claims of any nature.

IN WITNESS WHEREOF the Vendor has caused this Bill of Sale to be executed and delivered this _____ day of

_____.

GUILFORD TRANSPORTATION
INDUSTRIES, INC.

By _____
[Name]

Title _____

GUARANTY AND SURETYSHIP AGREEMENT

This GUARANTY AND SURETYSHIP AGREEMENT (this "Guaranty"), dated as of May 1, 1984, made by GUILFORD TRANSPORTATION INDUSTRIES, INC. a Delaware corporation ("Guilford"), MAINE CENTRAL RAILROAD COMPANY, a Maine corporation ("Maine Central") and DELAWARE AND HUDSON RAILWAY COMPANY, a Delaware corporation ("Hudson") (collectively, the "Guarantors"), in favor of MELLON FINANCIAL SERVICES CORPORATION #3, a Pennsylvania corporation ("Lessor");

W I T N E S S E T H:

WHEREAS, Guilford owns directly all the issued and outstanding common shares of capital stock of Boston and Maine Corporation, a Delaware corporation ("Lessee");

WHEREAS, Maine Central and Hudson are affiliates and interconnects with Lessee;

WHEREAS, Lessee has requested that Lessor enter into an Agreement and Lease dated as of the date hereof with Lessee as lessee and Lessor as lessor (the "Lease"), a true and correct copy of which the Guarantors hereby acknowledge having received and read;

WHEREAS, Lessor requires as a condition of the Lease that the Guarantors guarantee to Lessor and become surety for the Debt (as hereinafter defined);

WHEREAS, the Lease permits and contemplates that the Equipment will be made available for use by the Guarantors (other than Guilford) and as such will benefit the Guarantors; and

WHEREAS, the Guarantors wish to induce Lessor to enter into the Lease in order to have the Equipment available for use by the Guarantors and to further the economic growth and continued development of Lessee, in which the Guarantors have a significant financial or commercial interest;

NOW, THEREFORE, for and in consideration of the Debt, in order to induce Lessor to enter into the Lease and for other good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound hereby, the Guarantors hereby covenant and agree with Lessor as follows:

Section 1. Certain Definitions. The terms defined in the Lease when used herein shall have the same meanings as so defined unless otherwise defined herein or the context otherwise requires. In addition to the words or terms defined in the Lease and elsewhere in this Guaranty, as used herein the following term shall have the following meaning unless the context hereof otherwise clearly requires:

"Debt" shall mean all the duties and obligations of Lessee under and pursuant to the Lease and the Equipment Reconstruction Agreement, including without limitation Lessee's duties and obligations to pay Rent.

Section 2. Guaranty and Suretyship.

(a) The Guarantors, in accordance with the terms and conditions hereof, hereby absolutely and unconditionally guarantee to Lessor and become surety for the full and punctual payment and performance of the Debt as and when the Debt shall become due and payable, whether at maturity or by declaration, acceleration or otherwise, in accordance with the terms and conditions of the Lease.

(b) Each Guarantor shall be jointly and severally liable hereunder to the Lessor for the full amount of the Debt and the punctual payment and performance thereof.

(c) This Guaranty shall continue in full force and effect from the date hereof for so long as Lessee may be obligated under the Lease and until the Debt shall have been paid and performed in full and discharged.

Section 3. Representations and Warranties. The Guarantors represents and warrants as follows:

(a) The Guarantors are corporations duly organized and validly existing in good standing under the respective laws of the states of their incorporation.

(b) Each Guarantor has full power, authority and legal right to execute, deliver and perform in accordance with this Guaranty. This Guaranty has been duly authorized by all necessary corporate action on the part of each Guarantor; does not require the approval of, or the giving of notice to, any federal, state, local or foreign governmental authority (except such as has already been given or obtained); does not contravene any law, governmental regulation or judicial or administrative order or decree binding on such Guarantor; and does not contravene the respective charter or by-laws of such Guarantor or any indenture or agreement to which such Guarantor is a party or by which it or its property is bound;

(c) This Guaranty constitutes a legal, valid and binding obligation of each Guarantor, enforceable in accordance with its terms;

(d) Except as disclosed in a letter furnished by each Guarantor to Lessor at or before the time of execution of this Guaranty, there are no pending or threatened actions or proceedings against such Guarantor or any of its affiliates before any court, administrative agency or other tribunal or body as of the Purchase Price Closing Date which may materially adversely affect such Guarantor's financial

condition or operations or which question the legality or validity of this Guaranty or which may affect such Guarantor's ability to perform its obligations hereunder;

(e) The audited financial statements of each Guarantor for the year ending December 31, 1982 have been furnished to Lessor and fairly present such Guarantor's financial condition as of such date and the results of its operations for such periods in accordance with generally accepted accounting principles provided, however, that the audited financial statements of Hudson for the year ending December 31, 1982 are subject to the qualifications set forth therein. The unaudited interim financial statements of Guilford (consolidated) for the periods ending June 30, 1983 and September 30, 1983, for Maine Central for the period ending November 30, 1983 and for Hudson for the period ending September 30, 1983, which financial statements of Hudson were prepared on a pro forma basis giving effect to the planned acquisition by Guilford, have been furnished to Lessor and fairly present such Guarantor's financial condition as of such date and the results of its operations for such periods in accordance with generally accepted accounting principles. Since such dates and up to and including the Purchase Price Closing Date there has been no material adverse change in such condition or operations except with respect to Hudson; and

(f) Upon the written request of Lessor at any time and from time to time and provided such disclosure is not prohibited by the Interstate Commerce Commission, each Guarantor will furnish to Lessor, within fifteen (15) days of such request, such additional information concerning the financial condition and operations of such Guarantor as Lessor may reasonably request.

Section 4. Payment. In the event Lessee shall default in the full and punctual payment and performance of the Debt in accordance with the terms and conditions of the Lease or the Equipment Reconstruction Agreement, each Guarantor hereby promises that it will, within three (3) business days of receipt of written notice of such default, make payment of or perform the Debt.

Section 5. Enforcement. The obligations of the Guarantors under this Guaranty shall be directly enforceable by Lessor in accordance with the terms and conditions hereof. The Guarantors hereby unconditionally waive: (a) all notice of acceptance of this Guaranty, of the execution and delivery of the Lease or the Equipment Reconstruction Agreement, of any extension of time for or waiver in respect of the Debt (provided that the benefit of each such extension or waiver is extended to Guarantors) and, subject to the provisions of Section 4 hereof, of nonpayment or default, and any other notice to which it might otherwise be entitled, (b) any presentment or demand to Lessee

for payment from Lessor or any other person, (c) any protest, proceeding for collection or other action of any nature against Lessee or any other person (excluding the Guarantors) or any collateral security, account or credit, and (d) all other similar or dissimilar acts or conditions to enforcement of this Guaranty, all in order that this Guaranty shall, in accordance with the terms and conditions hereof, be absolute and unconditional and shall not be limited to a guarantee of collection of the Debt.

Section 6. Effectiveness. The obligations of the Guarantors under this Guaranty are, in accordance with the terms and conditions hereof, absolute and unconditional and shall not be diminished, released or discharged, nor shall the Guarantors be in any way excused from performance thereof, by: (a) any extension of the time for payment or performance of the Debt, provided that the benefit of each such extension is extended to the Guarantors, (b) any alteration or modification of the Debt, (c) any payment, release, discharge, compromise, settlement or accord and satisfaction of the Debt or of any other obligation of Lessee or any other person for so long as Lessee remains obligated under the Lease and the Equipment Reconstruction Agreement and until the Debt shall have been paid or performed in full and discharged, provided that the Guarantors receive credit against their obligations hereunder for all the amounts paid to Lessor pursuant to each such payment, release, discharge, compromise, settlement or accordance and satisfaction, (d) any substitution, exchange, surrender or release of, or any other dealing in respect of, any collateral held by Lessor, or available to it, for payment of the Debt or any failure to preserve, protect or perfect any mortgage, security interest, lien or other encumbrance in respect of any property of Lessee or any other person, (e) any modification, invalidity or unenforceability of, or any supplement or amendment to, the Lease or the Equipment Reconstruction Agreement, (f) any waiver of default, forbearance or indulgence extended to Lessee or any other person, provided that the benefit of each such waiver is extended to the Guarantors, or (g) any other action, omission, or circumstance whatsoever whereby this Guaranty might otherwise be released or discharged as to the Guarantors.

Section 7. Financial Statements. Each Guarantor shall, as soon after the end of each fiscal year of each Guarantor as practicable (and in any event within 120 days thereafter), furnish to Lessor duplicate copies of the such Guarantor's most recent financial statements certified by a recognized firm of certified public accountants. Quarterly statements shall be furnished within 60 days after their preparation by such Guarantor. The Guarantors shall also provide Lessor with annual and quarterly financial statements of the type and pursuant to the time requirements herein described which relate to Lessee. Each Guarantor shall also furnish to Lessor, within ten days after the same shall have been requested, provided such disclosure is not prohibited by the Interstate Commerce Commission, such additional information concerning the

financial condition and operations of such Guarantor as Lessor may reasonably request from time to time, and shall permit any person designated by Lessor to inspect the records maintained by such Guarantor in connection with the Equipment and to discuss the affairs, finances and accounts of such Guarantor with the respective principal officers of the Guarantors, all at such reasonable time and as often as Lessor may reasonably request.

These covenants shall be directly enforceable by Lessor by actions in law or equity without regard to the occurrence, existence or continuation of any default by Lessee in the full and punctual payment or performance of the Debt or in any of the terms or conditions of the Lease or the Equipment Reconstruction Agreement and without any action of any nature by Lessor against Lessee or any other person or any collateral.

Section 8. Miscellaneous.

(a) The provisions of this Guaranty may not be modified or amended without the written consent of Lessor.

(b) No delay or failure of Lessor in exercising any right, power or privilege hereunder shall affect such right, power or privilege; nor shall any single or partial exercise thereof or any abandonment or discontinuance of steps to enforce such a right, power or privilege preclude any further exercise thereof or of any other right, power or privilege. The rights and remedies of Lessor are cumulative and not exclusive of any rights or remedies which Lessor would otherwise have. Any waiver, permit, consent or approval of any kind or character on the part of Lessor of any breach or default under this Guaranty must be in writing and shall be effective only to the extent specifically set forth in such writing. Unless otherwise provided in the terms and conditions hereof, no notice to or demand on the Guarantors in any case shall entitle them to any other or further notice or demand in the same or other similar circumstance.

(c) In the event of any action at law or suit in equity looking to the enforcement of this Guaranty, the Lease, the Equipment Reconstruction Agreement or any mortgage, security agreement or other instrument or agreement relating to the Debt, or in the event of any other judicial, administrative or governmental proceeding, investigation or inquiry in relation thereto, the Guarantors, in addition to all other sums which they may be required to pay under this Guaranty, hereby agree that they shall be jointly and severally liable for the reasonable costs and expenses, including reasonable attorneys' fees, incurred by Lessor in connection therewith.

(d) All notices, statements, requests and demands given to or made upon any party hereto in accordance with the provisions of this Guaranty shall be deemed to have been given or made at the earlier of when actually received or when deposited

in the mail, postage prepaid, or, in the case of telegraphic notice, when delivered to the telegraph company, charges prepaid, and addressed, if to Lessor, at Mellon Financial Services Corporation #3, Suite 3030, One Mellon Bank Center, Pittsburgh, Pennsylvania 15258, Attention: President and if to the Guarantors, at Guilford Transportation Industries, Inc., 171 Orange Street, New Haven, Connecticut 06510, Attention: Robert W. Anestis, Esq., or in accordance with the latest unrevoked written direction from one party hereto to the other.

(e) This Guaranty and the rights and obligations of the parties hereto shall be construed in accordance with the laws of the Commonwealth of Pennsylvania. The Guarantors hereby agree that any case or controversy arising out of or in connection with this Guaranty or the transactions contemplated hereunder may be adjudged or determined in any court or courts located in the Commonwealth of Pennsylvania, and the Guarantors hereby irrevocably submit generally and unconditionally to the jurisdiction of such courts in relation to such matters. The foregoing shall not be deemed to affect the right of any party hereto to execute upon any judgment in any jurisdiction.

(f) Whenever used in this Guaranty, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. Headings are inserted for convenience only and shall not form part of the text of this Guaranty. If any provision of this Guaranty shall for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, but this Guaranty shall be construed as if such invalid or unenforceable provision had never been contained herein.

(g) This Guaranty may be executed in as many counterparts as may be deemed necessary or convenient, each of which when so executed shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

(h) This Guaranty shall be binding upon the Guarantors and upon their respective successors and assigns. This Guaranty

shall inure to the benefit of Lessor and its successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Guaranty as of the day and year first above written.

GUARANTORS:

Attest:

Guilford Transportation
Industries, Inc.

By _____

Title:

By _____

Title:

[CORPORATE SEAL]

Attest:

Maine Central Railroad Company

By _____

Title:

By _____

Title:

[CORPORATE SEAL]

Attest:

Delaware and Hudson Railway
Company

By _____

Title:

By _____

Title:

[CORPORATE SEAL]

LESSOR:

Mellon Financial Services
Corporation #3

By _____

Title:

COMMONWEALTH OF PENNSYLVANIA

)

) SS:

COUNTY OF ALLEGHENY

)

A C K N O W L E D G E M E N T

ON THIS, the 9th day of May, 1984, before me, a Notary Public, in and for said County and State, personally appeared JERRY E. VAUGHN, who acknowledged himself to be the Vice President of Mellon Financial Services Corporation #3 and DAVID A. FINK, who acknowledged himself to be the Chairman and Chief Executive Officer of Boston and Maine Corporation, and that they as such Vice President and Chairman and Chief Executive Officer, respectively, executed the foregoing instrument for the purposes therein contained by signing the name of the Corporation by himself as Vice President and Chairman and Chief Executive Officer, respectively.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Dorothy D. Keslar

Notary Public

DOROTHY D. KESLAR, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY

MY COMMISSION EXPIRES: MY COMMISSION EXPIRES JULY 27, 1985
Member, Pennsylvania Association of Notaries